
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

ERIC-CANTRELL HOLMES,

Plaintiff,

*versus*LORIE DAVIS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:17-CV-133

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, Eric-Cantrell Holmes, a prisoner formerly confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against seventeen defendants. Currently pending is plaintiff's Motion for Reconsideration of this Court's Prior Memorandum Opinion and Order Overruling Plaintiff's Objections to the Report and Recommendation filed April 17, 2017 (docket entry no. 15).

BACKGROUND

On April 17, 2017, the Magistrate Judge to whom this case is referred entered a Report and Recommendation, recommending dismissal of this civil rights action pursuant to 28 U.S.C. § 1915(g) (docket entry no. 7). Plaintiff filed objections to the Report and Recommendation on April 27, 2017 (docket entry no. 10). After considering the objections, this court entered a Memorandum Opinion and Order Overruling the Objections and Adopting the Report and Recommendation on January 8, 2018 (docket entry no. 15). The Memorandum Opinion and Order gave plaintiff thirty (30) days to pay the filing fee. Plaintiff then filed a Motion for

Reconsideration of the Memorandum Opinion and Order on February 12, 2018 (docket entry no. 17).

As outlined in this court's previous order, plaintiff has not met the imminent danger exception to 28 U.S.C. § 1915(g). Plaintiff's complaint surrounds events that occurred at the Mark Stiles Unit. At the time of filing his complaint, however, plaintiff was incarcerated at the Michael Unit. Plaintiff was not under threat of imminent danger at the time he filed this complaint.

Furthermore, in a companion case concerning similar claims against defendants at the Michael Unit, the Fifth Circuit Court of Appeals noted plaintiff's claims do not rise to the level of "imminent danger of serious physical injury." *See Holmes v. Fitzpatrick, et al.*, 6:17-CV-197, No. 17-40607 (5th Cir. 2018).¹

ORDER

Plaintiff's Motion for Reconsideration (docket entry no. 15) is **DENIED**.

SIGNED at Beaumont, Texas, this 17th day of August, 2018.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE

¹ In both complaints, plaintiff alleges that he, as a Shiite Muslim, faces imminent danger of serious bodily injury due to threats of violence from his fellow inmates who are Sunni Muslims.